NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 881 of 2021

- Abhishek Shrivastava S/o Shri Ravindra Shrivastava Aged About 36 Years R/o H-74, Civil Line, Ward No. 16, Rajnandgaon, Tahsil And District- Rajnandgaon, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station-Kotwali, Rajnandgaon, Chhattisgarh

---- Respondent

For Applicant	:	Shri Shashank Thakur, Advocate
For Respondent/State	:	Shri Vimlesh Bajpai, GA

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board
(Proceeding through Video Conferencing)

04.08.2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No. 380 of 2021 registered at Police Station Kotwali, District Rajnandgaon, Chhattisgarh for commission of offense punishable under Section 420 and 34 of IPC.

2. Case of the prosecution, in brief, is that, applicant, who is a Government Employee of Court at Rajnandgaon, gave a phone call to complainant on his mobile phone, who is also an employee of Court at Rajnandgaon, stating that one of his relatives (brother-in-law) will transfer amount of Rs.25,000/- in his 'Phone Pe' account and applicant has already gave 'Phone Pe' account number number of complainant to brother-in-law of applicant. Complainant on the basis of phone call from applicant, permitted transaction of transfer of Rs.25,000/-. Thereafter, on the same day, instead receiving amount of

Rs.25,000/-, total amount of Rs.99,908/- has been withdrawn fraudulently form bank a/c of complainant. Incident was informed to the applicant, to which he said that he was not responsible for any fraudulent transaction in any manner. Thereafter, complainant lodged a complaint against present applicant.

3. Applicant, apprehending his arrest, filed this anticipatory bail application after rejection of his application by the Court below.

4. Shri Shashank Thakur, learned counsel for the applicant would submit that applicant and complainant are employees of same Institution. Applicant when received phone call, stated that he is not using 'Phone Pe' and therefore, he cannot permit deposit of Rs.25,000/-. This talk/conversation was heard by complainant, who was sitting nearby applicant at that time has shown his desire to give his 'Phone Pe' account for said deposit, and transaction took place. Applicant is not involved in the crime in any manner. Complainant only to pressurize applicant for return of money, which he lost (Rs.99,908/-), made a false complaint against him.

5. On the other hand, Shri Vimlesh Bajpai, learned State counsel while opposing the submission of learned counsel for the applicant, submits that it is the applicant who phoned to complainant and intimated fact of deposit of Rs.25,000/- in his 'Phone Pe' account by his relative *Jija*. He shared 'Phone Pe' account of complainant to his relative *Jija*. Applicant further stated that after deposit of amount, complainant may withdraw the sum and give it to applicant. Learned State counsel read

over contents of FIR in support of his submission. When applicant was not known to the person, who gave call to him, then how applicant gave 'Phone Pe' account of complainant for transaction in his account, hence, applicant is not entitled for benefit of anticipatory bail under Section 438 of CrPC.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations levelled against the applicant in FIR, the fact that it is the applicant, who called complainant on his phone and stated that he already gave 'phone Pe' account of complainant to his brother-in-law (*jija)* and he will deposit Rs.25,000/-, and thereafter, fraudulent transaction took place, I do not find it a fit case to enlarge present applicant on bail. Accordingly, bail application is dismissed.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma